

CHAPTER NO. 476

HOUSE BILL NO. 645

By Representatives Patton, Caldwell, Mumpower, David Davis, Ford, Tidwell, Maddox, Montgomery, Pleasant, Beavers, Black, Dunn, Hargett, Newton, Hood, Buttry

Substituted for: Senate Bill No. 1216

By Senators Fowler, Miller

AN ACT to amend Tennessee Code Annotated, Title 56, Title 62 and Title 63, relative to nonpayment of student loans.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following new section thereto:

Section _____. (a) Upon receiving a copy of a final order as provided in subsection (b) from the Tennessee Student Assistance Corporation, hereinafter TSAC, or a guarantee agency which has an agreement with the United States Secretary of Education, hereinafter guarantee agency, each board, commission, committee, agency or other governmental entity, hereinafter licensing authority, created pursuant to this title shall suspend, deny or revoke the license of, or take other such appropriate disciplinary action, against any person, also referred to as debtor, who has defaulted on a repayment or service obligation under any federal Family Education Loan Program, the federal Higher Education Act of 1965, as amended; a student loan guaranteed or administered by the Tennessee Student Assistance Corporation; or any other state or federal educational loan or service-conditional scholarship program.

(b)(1) Each board, commission, committee, agency or other governmental entity created pursuant to this title shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (2); and such board, commission, committee, agency or other governmental entity shall rescind any disciplinary action and restore any license or certificate upon receiving notice from such corporation or guarantee agency that the person has agreed to serve such person's obligation or is in compliance with an approved repayment plan.

(2)(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, or deferment/forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a) or such debtor has failed to enter into a payment plan or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC, or the guarantee agency, shall issue to such debtor a notice of intent to file an order with the appropriate licensing authority to suspend, deny or revoke the debtor's license or certificate. The notice must:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's license or certificate will be suspended, denied or revoked ninety (90) days after service unless within that time the debtor:

(a) pays the entire debt stated in the notice;

(b) enters into a payment plan or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency; or

(c) requests a hearing before TSAC or the guarantee agency.

(B) Any such hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC, or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether suspension, denial or revocation of the debtor's license or certificate is appropriate. The debtor's license or certificate may not be suspended, denied or revoked until a determination is reached following the hearing. The only issues that may be determined in such hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default; and

(iii) Has the debtor entered into, or is the debtor willing to enter into, a payment plan or to comply with a payment plan previously entered into and approved by TSAC or the guarantee agency.

(D) If a debtor fails to respond to such notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's license or certificate and further requesting the licensing authority to order the debtor to refrain from engaging in the licensed activity or activity for which a certificate has been issued. TSAC or the guarantee agency shall send a copy of such order to the licensing authority and the debtor.

(E) All such administrative hearings shall be conducted in the same manner as those conducted pursuant to §§ 36-5-703 and 36-5-704.

(F)(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall terminate the order suspending, denying or revoking the license or certificate. TSAC or the guarantee agency shall send a copy of the order terminating the suspension, denial or revocation to the licensing authority and the debtor. Notwithstanding any other provision of law, rule or regulation to the contrary, when the license or certificate is reinstated, the licensing authority shall not impose a reinstatement fee which exceeds fifty dollars (\$50.00).

(ii) Entry of an order terminating suspension, denial or revocation of a license or certificate does not limit the ability of TSAC or the guarantee agency to issue a new order suspending, denying or revoking the license or certificate of the same debtor in the event of another delinquency or default.

(G) The Tennessee Student Assistance Corporation is authorized to promulgate necessary rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, to implement the provisions of this subsection.

(c) Each board, commission, committee, agency or other governmental entity created pursuant to this title shall promulgate rules and regulations to effectuate the purposes of this section.

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 1, Part 3, is amended by adding the following new section thereto:

Section _____. (a) Upon receiving a copy of a final order as provided in subsection (b) from the Tennessee Student Assistance Corporation, hereinafter TSAC, or a guarantee agency which has an agreement with the United States Secretary of Education, hereinafter guarantee agency, each board, commission or agency, hereinafter licensing authority, attached to the division of regulatory boards shall suspend, deny or revoke the license of, or take other such appropriate disciplinary action, against any person who has defaulted on a repayment or service obligation under any Federal Family Education Loan Program, the Federal Higher Education Act of 1965, as amended, a student loan guaranteed or administered by the Tennessee Student Assistance Corporation, or any other state or federal educational loan or service-conditional scholarship program.

(b)(1) Each board, commission, committee, agency or other governmental entity created pursuant to this title shall accept any determination of default from TSAC or a guarantee agency, after TSAC or the guarantee agency has afforded a debtor an opportunity to be heard in accordance with subdivision (2); and such board, commission, committee, agency or other governmental entity shall rescind any disciplinary action and restore any license or certificate upon receiving notice from such corporation or guarantee agency that the person has agreed to serve such person's obligation or is in compliance with an approved repayment plan.

(2)(A) Unless a debtor has made satisfactory arrangements according to the lender, TSAC or the guarantee agency, which may include administrative wage garnishment, voluntary payment arrangements, or deferment/forbearance, then the debtor shall be regarded as delinquent or in default. If a debtor is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a) or such debtor has failed to enter into a payment plan or comply with a payment plan previously approved by TSAC or the guarantee agency, then TSAC, or the guarantee agency, shall issue to such debtor a notice of intent to file an order with the appropriate licensing authority to suspend, deny or revoke the debtor's license or certificate. The notice must:

(i) Be served upon the debtor personally or by certified mail with return receipt requested; and

(ii) State that the debtor's license or certificate will be suspended, denied or revoked ninety (90) days after service unless within that time the debtor:

(a) pays the entire debt stated in the notice;

(b) enters into a payment plan or complies with a payment plan previously entered into and approved by TSAC or the guarantee agency; or

(c) requests a hearing before TSAC or the guarantee agency.

(B) Any such hearing request by the debtor shall be made in writing and must be received by TSAC or the guarantee agency within twenty (20) days of the date the notice is served.

(C) TSAC, or the guarantee agency, upon receipt of a request for a hearing from the debtor, shall schedule a hearing to determine whether suspension, denial or revocation of the debtor's license or certificate is appropriate. The debtor's license or certificate may not be suspended, denied or revoked until a determination is reached following the hearing. The only issues that may be determined in such hearing are:

(i) The amount of the debt, if any;

(ii) Whether the debtor is delinquent or in default; and

(iii) Has the debtor entered into, or is the debtor willing to enter into, a payment plan or to comply with a payment plan previously entered into and approved by TSAC or the guarantee agency.

(D) If a debtor fails to respond to such notice of intent, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the debtor's defenses, objections, or request for a payment plan or compliance with a payment plan may be determined to be without merit and TSAC or the guarantee agency shall enter a final decision and order, requesting suspension, denial or revocation of the debtor's license or certificate and further requesting the licensing authority to order the debtor to refrain from engaging in the licensed activity or activity for which a certificate has been issued. TSAC or the guarantee agency shall send a copy of such order to the licensing authority and the debtor.

(E) All such administrative hearings shall be conducted in the same manner as those conducted pursuant to §§ 36-5-703 and 36-5-704.

(F)(i) When TSAC or the guarantee agency determines that the debt is paid in full or the debtor has entered into a payment plan or complied with a payment plan previously approved by TSAC or the guarantee agency, TSAC or the guarantee agency shall terminate the order suspending, denying or revoking the license or certificate. TSAC or the guarantee agency shall send a copy of the order terminating the suspension, denial or revocation to the licensing authority and the debtor. Notwithstanding any other provision of law, rule or regulation to the contrary, when the license or certificate is reinstated, the licensing authority shall not impose a reinstatement fee which exceeds fifty dollars (\$50.00).

(ii) Entry of an order terminating suspension, denial or revocation of a license or certificate does not limit the ability of TSAC or the guarantee agency to issue a new order suspending, denying or revoking the license or certificate of the same debtor in the event of another delinquency or default.

(2) The Tennessee Student Assistance Corporation is authorized to promulgate necessary rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, to implement the provisions of this subsection.

(c) Each board, commission or agency attached to the division of regulatory boards shall promulgate rules and regulations to effectuate the purposes of this section.

SECTION 3. The State Board of Education is authorized to establish guidelines, through the promulgation of rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, to suspend, deny or revoke the license or certificate of a teacher who is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a) or if such teacher has failed to enter into a payment plan or comply with a payment plan previously approved by TSAC or a guarantee agency.

SECTION 4. The Supreme Court is encouraged to establish guidelines to suspend, deny or revoke the license of an attorney who is delinquent or in default on a repayment or service obligation under a guaranteed student loan identified in subsection (a) or such attorney has failed to enter into a payment plan or comply with a payment plan previously approved by TSAC or a guarantee agency.

SECTION 5. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect July 1, 1999, the public welfare requiring it.

PASSED: May 27, 1999


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 1999


DON SUNDQUIST, GOVERNOR